

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

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DARREN A. BRITTO, GABRIEL A.  
TAUSCHER, and SHAWN M. KROLL,

Plaintiffs,

v.

Case No. 2:23-cv-00019

BUREAU OF ALCOHOL, TOBACCO,  
FIREARMS AND EXPLOSIVES,

Defendant.

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**PLAINTIFFS' MOTION FOR LEAVE TO FILE  
SUPPLEMENTAL AUTHORITY**

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Pursuant to Local Civil Rule 56.7, Plaintiffs request permission to file the attached supplemental authority in support of Plaintiffs' motion for preliminary injunction. *See* ECF 14. On May 23, 2023, the Court of Appeals for the Fifth Circuit issued an unpublished order granting a preliminary injunction pending appeal in *Mock v. Garland*, No. 23-10319 (5th Cir. May 5, 2023), No. 23-cv-95 (N.D. Tex. 2023). The legal issue in *Mock*—the validity of ATF's pistol-brace rule—is the same legal issue presented by this case. Importantly, however, the *Mock* order states that the preliminary injunction is granted “as to the Plaintiffs in this case” (that is, the *Mock* plaintiffs). Therefore, the upcoming compliance deadline, May 31, 2023, still applies to Plaintiffs Britto, Tauscher, and Kroll in this case, and the rest of the nation. Therefore, to avoid irreparable harm, for the reasons stated in Plaintiffs' brief and

reply in support of the motion for preliminary injunction, ECF 15 & 43, Plaintiffs restate their request for a preliminary injunction prohibiting Defendant from implementing and enforcing the “Factoring Criteria for Firearms with Attached ‘Stabilizing Braces’” Rule as published at 88 Fed. Reg. 6478 (Jan. 31, 2023).

### **CERTIFICATE OF CONFERENCE**

Defendant does not oppose Plaintiffs’ submission of supplemental authority. Pursuant to Local Civil Rule 7.1, undersigned counsel certifies that he conferred with attorneys for Defendant, Jody Lowenstein (USDOJ-CIV), Michael Drezner (USDOJ-CIV), and Faith Lowry (USDOJ-CIV) on May 23, 2023, via email regarding Plaintiffs’ motion for leave to file supplemental authority. Plaintiffs do not oppose Defendant filing a short response of similar length to this filing.

Dated: May 23, 2023

WISCONSIN INSTITUTE FOR  
LAW & LIBERTY, INC.

s/ Daniel P. Lennington

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